

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Duane Leroy Fox

v.

Civil No. 11-cv-295-SM

Superintendent, Strafford
County Department of Corrections

O R D E R

Before the court for preliminary review, is pro se plaintiff Duane Leroy Fox's complaint (doc. no. 1), and two addendums thereto (doc. nos. 15 & 22), which the court construes jointly as the complaint in this action. See 28 U.S.C. § 1915A(a); United States District Court District of New Hampshire Local Rule ("LR") 4.3(d)(2). For the reasons set forth in the report and recommendation issued this date, the court finds that Fox has stated a claim for the deprivation of his Fourteenth Amendment right to be protected from harm while a pretrial detainee. Fox asserts this claim against unnamed correctional officials who were working in E pod at the Strafford County House of Corrections ("SCHC") while he was detained there. Because Fox seeks only monetary relief, the claims shall proceed against the defendants in their individual capacities.

I. Service of Complaint

At this juncture, the court would normally direct service of the complaint on defendants. See 28 U.S.C. § 1915(d); LR 4.3(d)(1)(B)(iii). Service cannot be completed, however, because Fox has not identified the SCHC officers who allegedly deprived him of his constitutional rights. Fox is ordered, therefore, to ascertain the names and addresses of the SCHC correctional officers who were working on E pod when the alleged assaults occurred. Fox may obtain that information by contacting the SCHC and requesting that it provide him with the names of the SCHC officers who worked on E pod during the dates he was detained there. Once Fox acquires defendants' names and addresses, he is directed to provide that information to the Clerk of this court. Fox shall have 90 days from the date of this order to notify the Clerk's office that he has obtained the names and addresses of the defendants he wishes to sue, and to provide each defendant's name and address to the Clerk's office, so that service may be completed within 120 days, as required by Fed. R. Civ. P. 4(m).

Upon receipt of that information, the Clerk's office is directed to complete and issue a summons form for each defendant identified by Fox, and to forward the summonses, along with copies of the complaint (doc. nos. 1, 15 & 22), the order issued

January 17, 2012 (doc. no. 19), the report and recommendation issued simultaneously herewith, and this order, to the U.S. Marshal's office to complete service in accordance with this order and Fed. R. Civ. P. 4(c)(3). See LR 4.3(d)(1)(B)(iii). Service may be completed either by delivering copies of the above-referenced documents to each of the defendants personally, or by leaving those same documents at the respective defendant's abode, pursuant to New Hampshire Rev. Stat. Ann. § 510:2 (1997). See Fed. R. Civ. P. 4(e) (providing for service on individuals within the federal judicial district).

Defendants are instructed to answer or otherwise plead within twenty days of service. See Fed. R. Civ. P. 12(a)(1)(A). Plaintiff is instructed that all future pleadings, written motions, notices, or similar papers shall be served directly on defendants by delivering or mailing the materials to them or their attorney(s), pursuant to Fed. R. Civ. P. 5(b).

II. Amendment of Complaint

Once Fox has acquired the identities of the individuals against whom he intends to pursue this action, Fox is ordered to amend his complaint to include their proper names and addresses.

III. Motion for Appointment of Counsel

As part of his second motion to amend the complaint (doc. no. 22), Fox renewed his previously denied requests for appointment of counsel (doc. nos. 14 and 19). For the reasons set forth in this court's January 17, 2012 Order (doc. no. 19), the request for appointment of counsel is denied, without prejudice to Fox's filing a renewed request should circumstances warrant it.

SO ORDERED.



Landya McCafferty
United States Magistrate Judge

June 18, 2012

cc: Duane Leroy Fox, pro se

LBM:jkc